

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TAJAI CALIP,
Plaintiff,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT,
Defendant.

Case No. [15-cv-00877-SI](#)

**ORDER CONSTRUING REQUEST FOR
RECONSIDERATION AS MOTION
FOR RELIEF FROM JUDGMENT
PURSUANT TO FRCP 60(B);
GRANTING MOTION FOR RELIEF
FROM JUDGMENT; DISMISSING
CASE FOR FAILURE TO STATE A
CLAIM; RESETTING TIME TO FILE
NOTICE OF APPEAL**

On November 17, 2015, the Court dismissed this case without prejudice and entered judgment. The Court's November 17, 2015 order stated that plaintiff had failed to file a third amended complaint by the deadline of November 13, 2015, and thus that the case was dismissed for failure to prosecute. The Court also found that various documents filed by plaintiff on November 6 and 12, 2015 could not be construed, individually or collectively, as an amended complaint.

The docket reflects that on December 1, 2015, the November 17, 2015 order and judgment mailed to plaintiff's address of record was returned to the Court as undeliverable. Dkt. 54.¹ That same day, the November 17, 2015 order and judgment were re-mailed to a different address for plaintiff. Plaintiff did not file a notice of appeal.

Instead, plaintiff filed a document on December 3, 2015 titled both "Amended Complaint"

¹ According to the docket, plaintiff called the Court's clerk on November 16, 2015 to update her address, and the November 17, 2015 order and judgment were mailed to the address provided on November 16, 2015.

1 and "Plaintiff Oakland Unified School District Opposing Defendant's Request for Judicial Notice
2 of Motion to Dismiss Initial Complaint." Dkt. 53.² Plaintiff also filed letters dated April 27, 2016
3 and May 18, 2016. The May 18, 2016 letter states that plaintiff is "asking for a reconsideration
4 and court order judgment for my compensation in the case of Calip v. OUSD. It was sent late
5 because I received the information late and had to mail it off to the courts." Dkt. 57.

6 In light of plaintiff's *pro se* status, and the fact that the November 17, 2015 order and
7 judgment was initially returned as undeliverable, the Court construes plaintiff's May 18, 2016
8 letter requesting reconsideration as a motion for relief from judgment pursuant to Federal Rule of
9 Civil Procedure 60(b). So construed, the Court GRANTS plaintiff relief from the judgment and
10 sets aside the November 17, 2015 order and judgment.

11 The Court will evaluate whether the documents filed on November 30, 2015 and December
12 3, 2015, state a claim for relief. The Court concludes that they do not. Neither document alleges
13 any causes of action, and instead plaintiff simply reiterates arguments she made previously in
14 opposition to defendant's earlier motions to dismiss the complaint. *See generally* Dkt. Nos. 53 &
15 55. The Court's November 2, 2015 order stated that plaintiff would be provided one final
16 opportunity to file an amended complaint, and provided plaintiff with specific guidance regarding
17 the filing of an amended complaint. *See* Dkt. 47 at 6:22-7:8. Plaintiff's November 30, 2015 and
18 December 3, 2015 filings do not comply with the Court's November 2, 2015 order, and the Court
19 concludes that plaintiff has failed to state a claim upon which relief can be granted.

20 Accordingly, the Court DISMISSES this case for failure to state a claim. The Court will
21 enter a new judgment. **Plaintiff is advised that pursuant to Federal Rule of Appellate**
22 **Procedure 4(a)(1), if plaintiff wishes to file a notice of appeal, the notice of appeal "must be**
23 **filed with the district court within 30 days after entry of judgment or order appealed from."**

24 The Court also advises plaintiff that the Court certifies pursuant to 28 U.S.C. § 1915 that
25 any appeal in this action is not taken in good faith, and thus if plaintiff wishes to file a notice of
26

27 ² That document is similar to a document filed on November 30, 2015, also titled
28 "Amended Complaint" and "Plaintiff Oakland Unified School District Opposing Defendant's
Request for Judicial Notice of Motion to Dismiss Initial Complaint."

1 appeal, plaintiff must also pay the filing fee for an appeal.

2 **Finally, plaintiff is hereby instructed that, aside from the filing of an appeal, no**
3 **further filings shall be accepted in this action. This case is closed.**

4
5 **IT IS SO ORDERED.**

6
7 Dated: May 23, 2016



8 SUSAN ILLSTON
9 United States District Judge